

103D CONGRESS
1ST SESSION

S. 341

To provide for a land exchange between the Secretary of Agriculture and Eagle and Pitkin Counties in Colorado, and for other purposes.

IN THE SENATE OF THE UNITED STATES

FEBRUARY 4 (legislative day, JANUARY 5), 1993

Mr. CAMPBELL (for himself and Mr. BROWN) introduced the following bill; which was read twice and referred to the Committee on Energy and Natural Resources

A BILL

To provide for a land exchange between the Secretary of Agriculture and Eagle and Pitkin Counties in Colorado, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. FINDINGS AND PURPOSES**

4 (a) FINDINGS.—Congress finds that—

5 (1) Eagle and Pitkin Counties in the State of
6 Colorado (hereinafter in this Act referred to as the
7 “Counties”) are offering to convey to the United
8 States approximately one thousand three hundred
9 and seven acres of patented mining claim properties

1 owned by the Counties within or adjacent to the
2 White River National Forest (hereinafter in this Act
3 referred to as the “National Forest inholdings”), in-
4 cluding approximately six hundred and sixty nine
5 acres of inholdings within the Holy Cross, Hunter-
6 Fryingpan, Collegiate Peaks, and Maroon Bells-
7 Snowmass Wilderness Areas;

8 (2) the properties identified in paragraph (1)
9 are National Forest inholdings whose acquisition by
10 the United States, would facilitate better manage-
11 ment of the White River National Forest and its wil-
12 derness resources; and

13 (3) certain lands owned by the United States
14 within Eagle County comprising approximately two
15 hundred and seventeen acres and known as the Mt.
16 Sopris Tree Nursery (hereinafter in this Act referred
17 to as the “nursery lands”) are available for exchange
18 and the Counties desire to acquire portions of the
19 nursery lands for public purposes.

20 (b) PURPOSES.—The purposes of this Act are—

21 (1) to provide the opportunity for an exchange
22 whereby the Counties would transfer to the United
23 States the National Forest inholdings in exchange
24 for portions of the nursery lands;

1 (2) to provide an expedited mechanism under
2 Federal law for resolving any private title claims to
3 the National Forest inholdings if the exchange is
4 consummated; and

5 (3) after the period of limitations has run for
6 adjudication of all private title claims to the Na-
7 tional Forest inholdings, to quiet title in the
8 inholdings in the United States subject to valid ex-
9 isting rights adjudicated pursuant to this Act.

10 **SEC. 2. OFFER OF EXCHANGE.**

11 (a) OFFER BY THE COUNTIES.—The exchange di-
12 rected by this Act shall be consummated if within ninety
13 days after enactment of this Act, the Counties offer to
14 transfer to the United States, pursuant to the provisions
15 of this Act, all right, title, and interest of the Counties
16 in and to approximately—

17 (1) one thousand two hundred and fifty eight
18 acres of lands owned by Pitkin County within and
19 adjacent to the boundaries of the White River Na-
20 tional Forest, Colorado, and generally depicted as
21 parcels 1–53 on maps entitled “Pitkin County
22 Lands to Forest Service”, numbered 1–11, and
23 dated April 1990, except for parcels 20 (Twilight),
24 21 (Little Alma), the Highland Chief, and Alaska
25 portions of parcel 25 depicted on map 7, and parcel

1 52 (Iron King) on map 11, which shall remain in
2 their current ownership; and

3 (2) forty-nine acres of land owned by Eagle
4 County within and adjacent to the boundaries of the
5 White River National Forest, Colorado, and gen-
6 erally depicted as parcels 54–58 on maps entitled
7 “Eagle County Lands to Forest Service”, numbered
8 12–14, and dated April 1990, except for parcel 56
9 (Manitou) on map 14 which is already in National
10 Forest ownership.

11 (b) EXCHANGE BY THE SECRETARY.—Subject to the
12 provisions of section 3, within ninety days after receipt
13 by the Secretary of Agriculture (hereinafter in this Act
14 referred to as the “Secretary”) of a quitclaim deed from
15 the Counties to the United States of the lands identified
16 in subsection (a) of this section, the Secretary, on behalf
17 of the United States, shall convey by quitclaim deed to
18 the counties, as tenants in common, all right, title, and
19 interest of the United States in and to approximately one
20 hundred and thirty-two acres of land (and water rights
21 as specified in section 7 and the improvements located
22 thereon), as generally depicted as tract A on the map enti-
23 tled “Mt. Sopris Tree Nursery”, dated October 5, 1990.

1 **SEC. 3. RESERVATIONS AND CONDITIONS OF CONVEYANCE.**

2 (a) RESERVATIONS.—In any conveyance to the Coun-
3 ties pursuant to section 2, the Secretary shall reserve—

4 (1) all right, title, and interest of the United
5 States in and to approximately eighty-five acres of
6 land (and improvements located thereon), which are
7 generally depicted as tracts B (approximately twen-
8 ty-nine acres) and C (approximately fifty-six acres)
9 on the map referred to in section 2(b);

10 (2) water rights as specified in section 7(a);
11 and

12 (3) any easements, existing utility lines, or
13 other existing access in or across tract A currently
14 serving buildings and facilities on tract B.

15 (b) REVERSION.—It is the intention of Congress that
16 any lands and water rights conveyed to the Counties pur-
17 suant to this Act shall be retained by the Counties and
18 used solely for public recreation and recreational facilities,
19 open space, fairgrounds, and such other public purposes
20 as do not significantly reduce the portion of such lands
21 in open space. In the deed of conveyance to the Counties,
22 the Secretary shall provide that all right, title, and interest
23 in and to any lands and water rights conveyed to the
24 Counties pursuant to this Act shall revert back to the
25 United States in the event that such lands or water rights
26 or any portion thereof are sold or otherwise conveyed by

1 the Counties or are used for other than such public pur-
2 poses.

3 (c) EQUALIZATION OF VALUES.—(1) Within one hun-
4 dred and twenty days after the date of enactment of this
5 Act, the Secretary of Agriculture shall complete appraisals
6 of the lands to be exchanged pursuant to subsections (a)
7 and (b) of section 2 of this Act, taking into account any
8 effects on the value of such lands resulting from the use
9 restrictions and reversionary interest imposed by sub-
10 section (b) of this section and any other factors that may
11 affect value. The sum of \$120,000 shall be deducted from
12 the value of the Counties' offered lands to reflect any ad-
13 verse claims against such lands which may be adjudicated
14 pursuant to section 5 of this Act.

15 (2) The appraisals shall utilize nationally recognized
16 appraisal standards, including, to the extent appropriate,
17 the Uniform Appraisal Standards for Federal Land Acqui-
18 sition.

19 (3) On the basis of such appraisals, the Secretary
20 shall make a finding as to whether the values (after the
21 deduction described in paragraph (1)) of the lands to be
22 exchanged are equal and shall immediately notify the
23 Counties as to such finding. If the values are not equal,
24 any cash equalization which would otherwise be owed to
25 the Counties by the United States shall be waived. Any

1 equalization amount which may be owed to the United
2 States by the Counties shall be satisfied through convey-
3 ance to the United States, within five years of the date
4 of transfer of the nursery lands to the Counties pursuant
5 to section 2(b) of this Act, of additional lands or interests
6 in lands, acceptable to the Secretary, which the Counties
7 own on the date of enactment of this Act or may acquire
8 after such date. Such additional lands shall have a value
9 as approved by the Secretary at least equal to the amount
10 owed plus annual interest on such amount or unconveyed
11 portion thereof, as applicable, at the standard rate deter-
12 mined by the Secretary of the Treasury to be applicable
13 to marketable securities of the United States having a
14 comparable maturity. Interest shall accrue beginning on
15 the date the nursery lands are transferred to the Counties
16 pursuant to section 2(b) of this Act.

17 (d) RIGHT OF FIRST REFUSAL.—The Secretary may
18 convey any or all of the nursery lands reserved pursuant
19 to subsection (a) of this section for fair market value
20 under existing authorities, except that the Secretary shall
21 first offer the Counties the opportunity to acquire the
22 lands. This right of first refusal shall commence upon re-
23 ceipt by the Counties of written notice of the intent of
24 the Secretary to convey such property, and the Counties
25 shall have sixty days from the date of such receipt to offer

1 to acquire such properties at fair market value as tenants
2 in common. The Secretary shall have sole discretion as
3 to whether to accept or reject any such offer of the Coun-
4 ties.

5 **SEC. 4. STATUS OF LANDS ACQUIRED BY THE UNITED**
6 **STATES.**

7 (a) NATIONAL FOREST SYSTEM LANDS.—The Na-
8 tional Forest inholdings acquired by the United States
9 pursuant to this Act shall become a part of the White
10 River National Forest (or in the case of portions of parcels
11 39, 40, and 41 depicted on map 9, and a portion of parcel
12 54 of map 12, part of the Gunnison and Arapahoe Na-
13 tional Forests, respectively) for administration and man-
14 agement by the Secretary in accordance with the laws,
15 rules, and regulations applicable to the National Forest
16 System.

17 (b) WILDERNESS.—The National Forest inholdings
18 that are within the boundaries of the Holy Cross, Hunter-
19 Fryingpan, Collegiate Peaks, and Maroon Bells-Snowmass
20 Wilderness Areas shall be incorporated in and deemed to
21 be part of their respective wilderness areas and shall be
22 administered in accordance with the provisions of the Wil-
23 derness Act governing areas designated by that Act as
24 wilderness.

1 **SEC. 5. RESOLVING TITLE DISPUTES TO NATIONAL FOREST**
2 **INHOLDINGS.**

3 (a) QUIET TITLE ACT.—Notwithstanding any other
4 provisions of law and subject to the provisions of sub-
5 section (c) of this section, section 2409a of title 28, United
6 States Code (commonly referred to as the “Quiet Title
7 Act”) shall be the sole legal remedy of any party claiming
8 any right, title, or interest in or to any National Forest
9 inholdings conveyed by the Counties to the United States
10 pursuant to this Act.

11 (b) LISTING.—Upon conveyance of the National For-
12 est inholdings to the United States, the Secretary shall
13 cause to be published in a newspaper or newspapers of
14 general circulation in Pitkin and Eagle Counties, Colo-
15 rado, a listing of all National Forest inholdings acquired
16 pursuant to this Act together with a statement that any
17 party desiring to assert a claim of any right, title, or inter-
18 est in or to such lands must bring an action against the
19 United States pursuant to such section 2409a within the
20 same period described by subsection (c) of this section.

21 (c) LIMITATION.—Notwithstanding section 2409a(g)
22 of title 28, United States Code, any civil action against
23 the United States to quiet title to National Forest
24 inholdings conveyed to the United States pursuant to this
25 Act must be filed in the United States District Court for
26 the District of Colorado no later than the date that is six

1 years after the date of publication of the listing required
2 by subsection (b) of this section.

3 (d) VESTING BY OPERATION OF LAW.—Subject to
4 any easements or other rights of record that may be ac-
5 cepted and expressly disclaimed by the Secretary, and
6 without limiting title to National Forest inholdings con-
7 veyed by the Counties pursuant to this Act, all other
8 rights, title, and interest in or to such National Forest
9 inholdings if not otherwise vested by quitclaim deed to the
10 United States, shall vest in the United States on the date
11 that is six years after the date of publication of the listing
12 required by subsection (b) of this section, except for such
13 title as is conveyed by the Counties, no other rights, title,
14 or interest in or to any parcel of the lands conveyed to
15 the United States pursuant to this Act shall vest in the
16 United States under this subsection if title to such par-
17 cel—

18 (1) has been or hereafter is adjudicated as
19 being in a party other than the United States or the
20 Counties; or

21 (2) is the subject of any section or suit against
22 the United States to vest such title in a party other
23 than the United States or the Counties that is pend-
24 ing on the date six years after the date of publica-

1 tion of a listing required by subsection (b) of this
2 section.

3 (e) COSTS AND ATTORNEY'S FEES.—(1) At the dis-
4 cretion of the court, any party claiming right, title, or in-
5 terest in or to any of the National Forest inholdings who
6 files an action against the United States to quiet title and
7 fails to prevail in such action may be required to pay to
8 the Secretary on behalf of the United States, an amount
9 equal to the costs and attorney's fees incurred by the Unit-
10 ed States in the defense of such action.

11 (2) As a condition of any transfer of lands to the
12 Counties under this Act, the Counties shall be obligated
13 to reimburse the United States for 50 percent of all costs
14 in excess of \$240,000 not reimbursed pursuant to para-
15 graph (1) of this subsection associated with the defense
16 by the United States of any claim or legal action brought
17 against the United States with respect to any rights, title,
18 and interest in or to the National Forest inholdings. Pay-
19 ment shall be made in the same manner as provided in
20 section 6 of this Act.

21 **SEC. 6. REIMBURSEMENT TO THE UNITED STATES.**

22 (a) IN GENERAL.—As a condition of any transfer of
23 lands to the Counties under this Act, in addition to any
24 amounts required to be paid to the United States pursuant
25 to section 5(e), in the event of a final determination ad-

1 verse to the United States in any action relating to the
2 title to the National Forest inholdings, the United States
3 shall be entitled to receive from the Counties reimburse-
4 ment equal to the fair market value (appraised as if they
5 had marketable title) of the lands that are the subject of
6 such final determination.

7 (b) AVAILABILITY OF FUNDS.—Any money received
8 by the United States from the Counties under section 5(e)
9 or subsection (a) of this section shall be considered money
10 received and deposited pursuant to the Act of December
11 4, 1967, as amended (and commonly known as the Sisk
12 Act, 16 U.S.C. 484a).

13 (c) IN-KIND PAYMENT OF LANDS.—In lieu of mone-
14 tary payments, any obligation for reimbursement by the
15 Counties to the United States under this Act can be ful-
16 filled by the conveyance to the United States of lands hav-
17 ing a current fair market value equal to or greater than
18 the amount of the obligation. Such lands shall be mutually
19 acceptable to the Secretary and the Counties.

20 **SEC. 7. WATER RIGHTS.**

21 (a) ALLOCATION AND MANAGEMENT.—The water
22 rights in existence on the date of enactment of this Act
23 in the Mt. Sopris Tree Nursery, which comprise well water
24 and irrigation ditch rights adjudicated under the laws of
25 the State of Colorado, together with the right to admin-

1 ister, maintain, access, and further develop such rights,
2 shall be allocated and managed as follows;

3 (1) the United States shall convey to the Coun-
4 ties as undivided tenants in common all rights asso-
5 ciated with the five existing wells on the properties.

6 (2) if the Secretary determines that water from
7 the five existing wells is necessary to meet culinary,
8 sanitary, or domestic uses of the existing buildings
9 retained by the United States pursuant to section
10 3(a), the Counties shall make available to the United
11 States, without charge, enough water to reasonably
12 serve such needs and shall additionally, if requested
13 by the United States, make every future effort to co-
14 operatively provide to the United States, without
15 charge, commensurate with the Counties own needs
16 on tract A, water to serve reasonable culinary, sani-
17 tary, and domestic uses of any new buildings which
18 the United States may construct on its retained
19 lands in the future.

20 (3) all Federally owned irrigation ditch water
21 rights shall be reserved by the United States.

22 (b) MODIFICATION OF ALLOCATION.—If the
23 Secretary and the Counties determine the public in-
24 terest will be better served thereby, they may agree
25 to modify the precise water allocation made pursu-

1 ant to this section or to enter into cooperative agree-
2 ments (with or without reimbursement) to use,
3 share, or otherwise administer such water rights and
4 associated facilities as they determine appropriate.

5 **SEC. 8. MISCELLANEOUS PROVISIONS.**

6 (a) TIME REQUIREMENT FOR COMPLETING TRANS-
7 FER.—If the Counties make a timely offer, pursuant to
8 section 2(a), the transfers of lands authorized and directed
9 by this Act shall be completed no later than one year after
10 the date of enactment of this Act.

11 (b) BOUNDARY MODIFICATIONS.—The Secretary and
12 the Counties may mutually agree to make modifications
13 of the final boundary between tracts A and B prior to
14 completion of the exchange authorized by this Act if such
15 modifications are determined to better serve mutual objec-
16 tives than the precise boundaries as set forth in the maps
17 referenced in this Act.

18 (c) TRACT A EASEMENT.—The transfer of tract A
19 to the Counties shall be subject to the existing highway
20 easement to the State of Colorado and to any other right,
21 title, or interest of record.

22 (d) VALIDITY.—If any provision of this Act or the
23 application thereof is held invalid, the remainder of the
24 Act and application thereof, except for the precise provi-
25 sion held invalid, shall not be affected thereby.

1 (e) FOREST HEADQUARTERS AND ADMINISTRATIVE
2 OFFICES.—The White River National Forest head-
3 quarters and administrative office in Glenwood Springs,
4 Colorado, are hereby transferred from the jurisdiction of
5 the United States General Services Administration to the
6 jurisdiction of the Secretary, who shall retain such facili-
7 ties unless and until otherwise provided by subsequent Act
8 of Congress.

○